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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,706	06/05/2006	Kiichi Kusunoki	NNA-105-B	4899

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YOUNG BASILE
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084

EXAMINER

LICHTI, MATTHEW L

ART UNIT	PAPER NUMBER
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3663

NOTIFICATION DATE	DELIVERY MODE
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06/16/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/581,706	Applicant(s) KUSUNOKI, KIICHI	
	Examiner Matthew Lichti	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-9, 11-15, 17-23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-3, 5-9, 11-15, 17-23, and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/06/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/20/2008 has been entered.

Response to Arguments/Amendments

2. The amendment cleared up the 112 issues. The amendment to change “statistical body dimensions” to “average physical size” still leaves the claims indefinite.
3. Applicant's arguments with respect to Beninga et al. have been considered but are moot in view of the new ground(s) of rejection.
4. Applicant's arguments regarding the differences between distances moved and absolute positions are also moot in view of the new ground(s) of rejection.
5. In response to applicant's arguments that Wang does not teach interlocked states and non-interlocked states determined by a controller based on vehicle signals and a controller that only acts if in the interlocked state, figure 3 shows a mirror mode selection 42 which is part of the vehicle and sends signals controllers 44 and 46, which only act in the RH/LH interlocked state (paragraph 13).
6. In response to applicant's argument that the right hand and left hand mirrors are “one component” rather than two components, it is clear that right hand and left hand

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mirrors are separate components since they are on opposite sides of the vehicle (see figure 1 of Wang). Paragraph [0004] of applicant's specification does not discuss mirrors. If the specification describes driver and passenger mirrors as one component, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claims are given the broadest reasonable interpretation.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 3, 9, 15, and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "a human of average physical size" is vague because it is unclear how someone is determined to be average since the definition of "average" varies over time and depends on age and other factors. Physical size is also vague since it height, weight, length of arms and legs, etc.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims **1, 2, 7, 8, 13, 14, 19, 20, and 22**, are rejected under 35 U.S.C. 102(b) as being anticipated by Kanamori et al. (Japanese Patent Publication S62-146745 using English abstract and figures).

10. Regarding claim 1, Kanamori discloses (English Abstract & figure 1)

a. a controller (microcomputer 3) configured to receive vehicle signals (from remote switch 17 and ignition switch 12, receives vehicle speed) and determine at least an interlocked state and a non-interlocked state from the vehicle signals (relay 4 turned on in interlocked state when the vehicle speed is judged to be low);

b. at least one movement-distance sensor (seat slide rotation sensor 15) that senses the distance that the first adjustable component (seat) moves in one or more adjustment directions (B direction) when adjusted by the operator and generates an output indicative of the distance (number of rotations N1).

When the controller (microcomputer 3) is in the interlocked state, it computes the distance (N2) the second device (pedal) is to move based on the distance (N1) moved by the first component

When in the non-interlocked state, the controller is not responsive to the output signal of the movement distance sensor (if relay switch 4 is off or ignition 12 is off, microcomputer 3 is not connected to the motors m, see figure 1)

c. A motor (motor m of pedal device 2) that is actuated by the controller (microcomputer 3) when in the interlocked state and is drivingly engaged to the

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second adjustable component (pedal) to move in the one or more adjustment directions (B direction) of the second component the distance as computed by the controller.

11. Regarding claim 7, Kanamori discloses (English Abstract & figure 1)

- a. First adjustable component seat
- b. First motor m adapted to move the chair in response to user operated remote switch 18 of an operation switch 17 and user operated ignition switch 12
- c. Seat slid rotation sensor 15 operatively coupled (everything in figure 1 is operatively coupled) to motor m and detects number of rotations N1 in B direction
- d. Second adjustable component pedal
- e. a controller (microcomputer 3) configured to receive vehicle signals (from remote switch 17 and ignition switch 12, receives vehicle speed) and determine at least an interlocked state and a non-interlocked state from the vehicle signals (relay 4 turned on in interlocked state when the vehicle speed is judged to be low);

When the controller (microcomputer 3) is in the interlocked state, it computes the distance (N2) the second device (pedal) is to move based on the distance (N1) moved by the first component

- f. A second motor (motor m of pedal device 2) that is actuated by the controller (microcomputer 3) when in the interlocked state and is drivingly engaged to the second adjustable component (pedal) to move in the one or more

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adjustment directions (B direction) of the second component the distance as computed by the controller.

10. Regarding claim 13, Kanamori discloses (English Abstract & figure 1)

a. a movement-distance sensor (seat slide rotation sensor 15) that senses the distance that the first adjustable component (seat) moves in one or more adjustment directions (B direction) when adjusted by the operator and generates an output indicative of the distance (number of rotations N1).

b. a controller (microcomputer 3) configured to receive vehicle signals (from remote switch 17 and ignition switch 12, receives vehicle speed) and determine at least an interlocked state and a non-interlocked state from the vehicle signals (relay 4 turned on in interlocked state when the vehicle speed is judged to be low);

When the controller (microcomputer 3) is in the interlocked state, it computes the distance (N2) the second device (pedal) is to move based on the distance (N1) moved by the first component

c. A motor (motor m of pedal device 2) that is actuated by the controller (microcomputer 3) when in the interlocked state and is drivingly engaged to the second adjustable component (pedal) to move in the one or more adjustment directions (B direction) of the second component the distance as computed by the controller.

10. Regarding claim 19, Kanamori discloses (English Abstract & figure 1)

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- a. A seat slide rotation sensor 15 senses the distance that the first adjustable component (seat) moves in one or more adjustment directions (B direction) when adjusted by the operator and generates an output indicative of the distance (number of rotations N1).
 - b. Microcomputer 3 receives vehicle signals (from remote switch 17 and ignition switch 12, receives vehicle speed) and determines at least an interlocked state and a non-interlocked state from the vehicle signals (relay 4 turned on in interlocked state when the vehicle speed is judged to be low);
 - c. When the controller (microcomputer 3) is in the interlocked state, it computes the distance (N2) the second device (pedal) is to move based on the distance (N1) moved by the first component
 - d. A motor (motor m of pedal device 2) is actuated by the controller (microcomputer 3) when in the interlocked state and is drivingly engaged to the second adjustable component (pedal) and moves in the one or more adjustment directions (B direction) of the second component the distance as computed by the controller.
11. Regarding claims 2, 8, 14, 20, and 22, Kanamori discloses that the first adjustable device is a seat which moves the distance detected by seat slide rotation sensor 15, and the second device is a pedal (English abstract).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 3, 5, 9, 11, 15, 17, 23, and 25 are rejected under 35 U.S.C. 102(b) as anticipated by Kanamori et al. (Japanese Patent Publication S62-146745 using English abstract and figures) or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kanamori et al. in view of Ohki et al. (U.S. PG Publication 2002/0033297).

12. Regarding claims 3, 9, 15, and 23, Kanamori discloses (abstract) that the distance is calculated by multiplying distance N1 by a prescribed coefficient (preset ratio between the drivers arm length and leg length). This ratio would inherently be based on someone of average size since "based on" and "average" are very broad.

Ohki et al. move determine the distance to move the pedal based on the seat position and a curve of standard human physiques (paragraphs 35 & 36, figure 6).

It would be obvious for the coefficient to be based on average size to accommodate the most people.

13. Regarding claims 5, 11, 17, and 25, Kanamori discloses (abstract) that the interlock state (relay 4 is turned on) occurs when a speed is judged to be low. If the speed is zero, it will be judged to be low which means the interlock state will occur.

Ohki et al. move determine an interlocked state for adjusting the seat, pedal, and steering wheel based on when the vehicle is parked and speed is 0 mph (paragraphs 39-41 and figure 1).

It would be obvious to use a speed of zero for the interlocked state because it would be the safest speed for making adjustments without causing distractions or being unable to reach the pedal.

13. Claims 6, 12, 18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanamori et al. (Japanese Patent Publication S62-146745 using English abstract and figures) in view of Wang (U.S. PG Pub 2004/0109247).

14. Regarding claims 6, 12, 18, and 21, Kanamori discloses the invention substantially as claimed but does not particularly disclose the the first and second adjustable devices are mirrors

Wang discloses an automatic driving position adjustment system for use in a vehicle having at least first (fig. 1, left mirror 20) and second adjustable components (right mirror 22) wherein the first component is adjustable by an operator between a first and second position (par. 12), comprising:

(a) a movement-distance sensor (position sensor 48) that generates an output signal indicative of the distance that the first adjustable component (LH mirror 20) moves when adjusted by an operator between its first and second positions (par. 15);

(b) a controller (50) responsive to the output signal of the movement-distance sensor (48) and configured to compute a relative distance that the second adjustable

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component (RH mirror 22) is to move on the basis of the distance moved by the first adjustable component (par. 15); and

(c) a motor (24) that is actuated by the controller (50) and is drivingly engaged to the second adjustable component (RH mirror 22) to move the second component the relative distance as computed by the controller (par. 15).

Wherein the controller is configured to receive vehicle signals from the vehicle (mirror mode selection switch 40) and wherein the controller (50) is further adapted to actuate the motor (24) to move the second adjustable component (right hand mirror 22) when the vehicle is in an interlocked (LH/RH mode position) state (par. 13) and wherein the controller, when in the non-interlocked state, is not responsive to the output of the at least one movement-distance sensor.

wherein the first adjustable component (LH mirror 20) is a first mirror surface that moves through a range of angular positions when adjusted by an operator between the first and second positions and the second adjustable component (RH mirror 22) is a second mirror surface a that is adjustable through a range of angular positions (par. 17); wherein the movement-distance sensor (48) output is indicative of the change in the angular position of the first mirror surface (par. 18, measured LH mirror angle α).

It would have been obvious to one of ordinary skill in the art the time the invention was made to apply the system of moving vehicle components based on a distance moved by another component of Kanamori et al. to adjusting mirrors because it would have the same result of speeding up the process of adjusting the components to the drivers preference.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew Lichti whose telephone number is (571) 270-5374. The examiner can normally be reached on Monday - Friday 8:30 AM - 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on (571)272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. L./
Examiner, Art Unit 3663

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/Jack W. Keith/

Supervisory Patent Examiner, Art Unit 3663